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09/869,247	09/14/2001	Mikko Puuskari	060258-0281450	2288

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EXAMINER

HOM, SHICK C

ART UNIT	PAPER NUMBER
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2416

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No. 09/869,247	Applicant(s) PUUSKARI, MIKKO	
Examiner SHICK C. HOM	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 December 2008.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 10-13 is/are allowed.
- 6) Claim(s) 1, 14, 17-21 and 24-29 is/are rejected.
- 7) Claim(s) 2-9, 15, 16, 22 and 23 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION***Response to Arguments***

1. Applicant's arguments filed 12/2/08 have been fully considered but they are not persuasive.

In page 10 of the remarks, applicant argued that Lager et al. do not teach or suggest "in response to an address of a second gateway support node included in a message received from the first gateway support node, to activate establishment of a tunnel to be used for transmitting packets with said second gateway support node," as recited in claims 17 and 25 is not persuasive because Lager et al. in col. 3 lines 47-57 which recite that to access the GPRS services, the mobile station establishes a logical link between the mobile station and the SGSN and makes the mobile station available for SMS over GPRS, paging via SGSN and notification of incoming GPRS data and in order to send and receive GPRS data, the mobile station activate the packet data address (PDN-address) that it wants to use thereby making the mobile station known in the corresponding GGSN and interworking with external data networks can commence clearly reads on the use of an address of a node included in a message received from the first node, to activate establishment of a link to be used for transmitting packets with said second

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node; further, col. 3 line 58 to col. 4 line 2 which recite data being transferred between the mobile station and the external data networks using tunneling (the exchange of tunneling messages being part of the PDP-context activation procedure) clearly reads on the message having an address being used to activate establishment of a tunnel for transmitting packets with the node as claimed.

In pages 12-13 of the remarks, applicant argued that Lager et al. do not teach or suggest a support node arranged, in response to an address of a second gateway support node included in a message received from her first gateway support node, to activate establishment of a tunnel to the second support node is not persuasive because Fig. 5 shows the Serving GSN sending the message including the address of the MS, i.e. MS ID, to the Gateway GSN for establishment of a tunnel to the MS clearly reads on the three nodes.

In response to applicant's argument in page 12 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a support node sends a message to another support node in which the message contains an address of a second support node, wherein the other support node uses the received address of the second support node to establish a couple to the

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second support node) are not clearly recited in the rejected claims 17 and 25. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments, in pages 14-18 of the remarks, against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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3. Claims 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable Lager et al. (6,636,502).

Regarding claims 17 and 25:

Lager et al. disclose a support node comprising a processor configured, in response to an address of a second gateway support node included in a message received from a first gateway node, to activate establishment of a tunnel to be used for transmitting packets with said second gateway support node (col. 4 lines 7-18 recite the support node GGSN establishing a tunnel with the serving GPRS support node, i.e. second gateway support node, including the use of an address containing routing information as claimed).

While Lager et al. fail to disclose that the support node receives, from a first gateway node, a message including an address of a second Gateway Support Node, since a gateway is merely an entrance and exit into a communications network and Lager et al. in Fig. 1 and col. 1 lines 51-54 shows and recite that the GPRS support Node provides connection and interworking with various data networks, it reads on a gateway as claimed.

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4. Claims 1, 14, 20-21, 24, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lager et al. (6,636,502) in view of Kelly (2001/0055299).

Regarding claims 1, 14, 20-21, 24, and 28-29:

Lager et al. disclose the method, comprising:

defining at least one condition for a first gateway support node, so that when the condition is fulfilled, a second gateway support node is more suitable for transmitting packets over a connection, the second gateway support node being an alternative to the first gateway support node so that the packets are transmitted from a subscriber either via the first gateway support node or via the second gateway support node, the condition not relating to a receiver of a packet (the abstract recite a switching device for selection of packet data communication network (PDN, PDN2, IN) based upon specific network indication parameter NIP transmitted to a support node SGSN; and col. 1 lines 8-15 recite the selection being of gateway support node GGSN clearly reads on the defined condition not being related to a receiver of a packet whereby a second gateway support node is more suitable for transmitting packets over a connection as claimed).

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Lager et al. disclose all the subject matter of the claimed invention with the exception of detecting, by the first gateway node that the condition is fulfilled, and instructing, by the first gateway node, to select the second gateway support node by sending a first message indicating the second gateway support node.

Kelly from the same or similar fields of endeavor teach that it is known to provide detecting, by the first gateway node that the condition is fulfilled, and instructing, by the first gateway node, to select the second gateway support node by sending a first message indicating the second gateway support node (paragraphs 0018-0019 recite determining from the received data for establishing communication connection on the circuit-switch communication network and on the packet-switched data network including the gateway coupled to the network and paragraph 0066 recite the initially contacted gateway, i.e. first gateway node, contacting the selected gateway, i.e. second gateway node, for establishing the communication link reads on detecting condition being fulfilled, and the first gateway node selecting the second gateway node by sending a message indicating the second gateway support node as claimed).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to

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use provide the step of detecting, by the first gateway node that the condition is fulfilled, and instructing, by the first gateway node, to select the second gateway support node by sending a first message indicating the second gateway support node as taught by Kelly in the communications network and method of Lager et al.

The step of detecting, by the first gateway node that the condition is fulfilled, and instructing, by the first gateway node, to select the second gateway support node by sending a first message indicating the second gateway support node can be implemented by including the step of detecting fulfilled conditions and instructing the second gateway of Kelly to the method of selecting gateway of Lager et al.

The motivation for using the step of detecting, by the first gateway node that the condition is fulfilled, and instructing, by the first gateway node, to select the second gateway support node by sending a first message indicating the second gateway support node as taught by Kelly in the communication network and method of Lager et al. being that it provides more efficiency for the system since the system can more easily re-configure the connects so that calls to either packet-switched network and circuit-switched networks can be established.

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5. Claims 18-19 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lager et al. (6,636,502) in view of Davison et al. (2003/0026273).

Regarding claims 18-19 and 26-27:

Lager et al. disclose the support node described in paragraph 3 of this office action. Lager et al. disclose all the subject matter of the claimed invention with the exception of removing an existing tunnel to the first gateway support node in response to activation of tunnel establishment and to successful establishment of the tunnel to the second gateway support node.

Davison et al. from the same or similar fields of endeavor teach that it is known to provide means and step of removing an existing tunnel to the first gateway support node in response to activation of tunnel establishment and to successful establishment of the tunnel to the second gateway support node (paragraph 0046 recite initiating a new tunnel, marking the former tunnel for deletion and deleting the former tunnel).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the means and step of removing an existing tunnel to the

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first gateway support node in response to activation of tunnel establishment and to successful establishment of the tunnel to the second gateway support node as taught by Davison et al. in the device of Lager et al.

The means and step of removing an existing tunnel to the first gateway support node in response to activation of tunnel establishment and to successful establishment of the tunnel to the second gateway support node can be implemented by connecting the means and step of removing tunnel of Davison et al. in the device of Lager et al.

The motivation for using means for removing an existing tunnel to the first gateway support node in response to activation of tunnel establishment and to successful establishment of the tunnel to the second gateway support node as taught by Davison et al. in the communication device of Lager et al. being that it provides more efficiency for the system since the system can save resources by removing no longer needed connection links.

Allowable Subject Matter

6. Claims 10-13 are allowed.

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7. Claims 2-9, 15-16, and 22-23 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHICK C. HOM whose telephone number is (571)272-3173. The examiner can normally be reached on Mon-Thurs.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pham Chi can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chi H Pham/
Supervisory Patent
Examiner, Art Unit 2416
3/4/09

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